



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



LINDA S. ADAMS
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ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 0000 6167 7534

August 5, 2009

Mr. Brian Cox, Director
Humboldt County Division of Environmental Health
100 H Street, Suite 100
Eureka, California 95501

Dear Mr. Cox:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the Humboldt County Division of Environmental Health Certified Unified Program Agency (CUPA) on June 9 and 10, 2009. The evaluation was comprised of an in-office program review and field oversight inspections by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Humboldt County Division of Environmental Health's program performance is satisfactory with improvements needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on September 8, 2009.

Cal/EPA also noted during this evaluation that Humboldt County Division of Environmental Health has worked to bring about a number of local program innovations, including use of a Compliance Assistance Project account to improve regulatory quality. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program Website to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original Signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc sent via email:

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Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: Humboldt County Division of Environmental Health

Evaluation Date: June 9 and 10, 2009

EVALUATION TEAM

Cal/EPA: Kareem Taylor

SWRCB: Terry Snyder

CalEMA: Jack Harrah

DTSC: Asha Arora

DTSC: Patrick Lee

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>The CUPA did not correctly report information on its Annual Summary Reports.</p> <ul style="list-style-type: none">• The Annual Single Fee Summary Report (Report 2) for fiscal year (FY) 2007/2008 shows that the CUPA's total Permit by Rule (PBR) is 1 and Conditional Exemption (CE) is 4. Annual Inspection Summary Report (Report 3) shows that CUPA's total Onsite Hazardous Waste Treatment (PBR, CA, CE) is 4. Upon discussion with the Director, it was discovered that the CUPA's total regulated Onsite Hazardous Waste Treatment may be 1.• Report 2 for FY 2006/2007 shows that the CUPA's total Permit by Rule (PBR) is 1 and Conditional Exemption (CE) is 2. Report 3 shows that CUPA's total Onsite Hazardous Waste Treatment (PBR, CA, CE) is 2. Upon discussion with the Director, it was discovered that the CUPA's total regulated Onsite Hazardous Waste Treatment may be 1.	<p>By September 10, 2009, the CUPA will submit its revised FY 2006/2007 and 2007/2008 Summary Reports that contain the correct information.</p> <p>Please submit copies of the corrected Summary Reports along with the first progress report.</p>

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	<ul style="list-style-type: none"> • In the Report 3 for FY 2006/2007, the CUPA reported only 5 CalARP routine inspections when 7 CalARP audits were performed. The CUPA's audits usually include routine compliance inspections. • Report 3 for FY 2007/2008 does not contain the percent of routine inspections with Class 1 or Class 2 violations that returned to compliance (RTC) within 90 days. In addition, Report 3 shows that the CUPA's total RCRA large quantity generators (LQGs) are 4. Upon discussion with the Director, it was discovered that the CUPA's total RCRA LQGs may be 2. • In the Annual Enforcement Summary Report (Report 4) for FY 2007/2008, the CUPA only reported 1 administrative enforcement order (AEO) for 3 program elements, but internal records showed that the CUPA issued 14 AEOs. In addition, Report 4 does not contain the correct number of informal enforcement actions and penalty amounts. <p>CCR, Title 27, Section 15290 (a) (Cal/EPA, Cal EMA, and DTSC)</p>	
2	<p>The CUPA has not inspected every stationary source subject to the CalARP program within the past three years. From the last three summary reports, the CUPA inspected 9 stationary sources in FY 2005/2006, 5 in FY 2006/2007, and 1 in FY 2007/2008, for a total of 15 inspections. At the time the FY 2007/2008 summary report was submitted, there were 21 stationary sources.</p> <p>HSC, Chapter 6.95, Section 25537 (a) (Cal EMA)</p>	<p>By June 10, 2010, the CUPA will inspect at least one-third of its stationary sources.</p> <p>Along with the second progress report, the CUPA will submit an action plan to ensure that all stationary sources will be inspected every three years.</p>
3	<p>The CUPA has not yet obtained business plans from all businesses subject to the business plan program. Specifically, agricultural handlers, at this time, are neither regulated under the business plan program, nor properly exempted from the provisions of this program.</p> <p>HSC, Chapter 6.95, Section 25503.5 (a) (Cal EMA)</p>	<p>After many setbacks, the Humboldt County Department of Agriculture has received business plan questionnaire feedback from about half of the ag handlers polled. By June 10, 2010 the CUPA, in conjunction with the Ag Department, will submit an action plan to either regulate ag handlers under HSC Chapter 6.95, Article 1, or to individually exempt them under one of the provisions of HSC section 25503.5.</p>
4	<p>The CUPA's 2008 area plan did not contain the pesticide drift elements required by Senate Bill 391 (2004). Additionally, the area plan did not contain a reporting</p>	<p>By September 10, 2009, the CUPA will append a reporting form to the area plan and supply a copy of the form with the</p>

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	<p>form similar to the model form shown in Title 19, section 2720.</p> <p>CCR, Title 19, Sections 2720 (c) (d) (Cal EMA)</p>	<p>first quarterly update. By June 10, 2010 the CUPA will ensure that the area plan includes all of the required information from 19CCR 2722-2728, including pesticide drift elements.</p>
5	<p>The CUPA has not prepared an annual CalARP performance audit.</p> <p>CCR, Title 19, Section 2780.5 (Cal EMA)</p>	<p>By December 10, 2009, the CUPA will carry out a performance audit, and include a copy of this audit with the second quarterly update. Subsequently, at the CUPA's option, the elements of 19CCR 2780.5 can be appended to the annual Title 27 self audit.</p>
6	<p>The CUPA's Underground Storage tank (UST) facility files reviewed did not contain current Unified Program facility, tank, and monitoring application forms.</p> <p>CCR, Title 23, Section 2711 (SWRCB) HSC 6.7 Section 25286 (a) CCR, Title 27, Sections 15185 and 15188</p>	<p>By June 30, 2010, all UST facility files will be updated with the new Forms A (Facility Information), B (Tank Information), and D (Monitoring) which contain new fields of information from the old forms. This can be done during the annual compliance inspection by leaving the new forms with the owner/operator for completion or the CUPA can pre-populate owner/operator information into the form functional Word documents and leave copies with the facility. The new forms were part of the new Title 27 regulations adopted last year.</p> <p>Another alternative is to use Envision Connect (when in operation) or CERS (currently under development) portals. UST owner/operator may enter facility information via the web portal which will be able to be captured automatically by the Envision database.</p>
7	<p>The CUPA's permit does not include all the required UST specific elements. It is missing monitoring requirements of both tanks and piping or an attached approved monitoring plan.</p>	<p>By August 10, 2009, the CUPA will issue permits with monitoring requirements or attach an approved monitoring plan. The CUPA can develop a template containing the monitoring options and indicate what each facility has or the monitoring requirements may be shown on the permit as: Monitoring or programming for monitoring will be conducted at the locations of the following equipment, if installed: monitoring system control panels; sensors monitoring tank annular</p>

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		<p>spaces, sumps, dispenser pans, spill containers, or other secondary containment areas (e.g. double-walled piping); mechanical or electronic line leak detectors; and in-tank liquid level probes (if used for leak detection). Also monitoring options for automatic pump shutdown, fail safe operation, or other programming options will be specified.</p> <p>Additionally, if the CUPA wants to list equipment test due dates and other pertinent information they may do so.</p>
	CCR, Title 23, Sections 2634 (b), 2641 (g) and 2712 (c) (SWRCB)	
8	<p>In some cases, the CUPA is not following-up and/or documenting RTC for businesses cited for violations in Notices to Comply and inspection reports/Notices of Violation. Out of 12 files reviewed by DTSC, 4 files did not contain evidence of RTC or CUPA follow-up documentation. Below are some businesses that were cited for violations, but documentation of RTC or CUPA follow-up was not found:</p> <ul style="list-style-type: none"> • Magee Auto Shop – inspected 8-8-07 • Eureka Smog & Repair – inspected 4-4-08 • Cal Redwood Acquisition -- inspected 6-12-06 • Ronald C. Ruchong DDS – inspected 5-30-07 <p>Documenting facility RTC and CUPA follow-up actions is required as part of the CUPA's implementation of its Inspection and Enforcement (I and E) plan. In addition, this information is required for the CUPA's Annual Summary Reports.</p> <p>HSC, Chapter 6.11, Section 25404.1.2 (c) (DTSC) HSC, Chapter 6.5, Section 25187.8 (h) CCR, Title 27, Section 15200 (a)</p>	<p>By September 10, 2009, the CUPA will follow-up with businesses cited for violations and document RTC actions. In the absence of RTC documentation from businesses, the CUPA will document follow-up actions like reinspections, enforcement letters, etc.</p> <p>On the first progress report, the CUPA will submit to Cal/EPA an action plan as to how it will follow-up with businesses with violations on a more consistent basis.</p>
9	<p>The CUPA did not demonstrate that its staff had been adequately trained in the identification of hazardous waste violations for the small quantity generators (SQGs)/ conditionally exempt small quantity generators (CESQGs); permanent household hazardous waste facilities (PHHWCFs) and temporary household hazardous waste facilities (THHWCFs). Below are some businesses that were incorrectly cited:</p> <ul style="list-style-type: none"> • Dazey's Supply, Inc. – is an SQG facility that was inspected on 12-15-05. The violations cited were for LQG facilities. 	<p>By December 10, 2009, the CUPA will provide hazardous waste generator and HHWCFs training to staff regarding the identification and citation of hazardous waste violations.</p> <p>On the first progress report, the CUPA will submit to Cal/EPA action plan or schedule for the types and dates of training.</p>

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	<ul style="list-style-type: none"> Humboldt Waste Management Authority – inspected on 12-9-08 used a PHHWCFs checklist for conducting a THHWCF inspection. Humboldt Waste Management Authority – inspected on 12-9-08 cited violations for tank assessment and annual renewal notification and no PHHWCF checklist was used. <p>CCR, Title 27, Section 15260 (a) (3) (B) (DTSC)</p>	
10	<p>The CUPA did not conduct a complete oversight inspection on 6/11/09. During the oversight inspection of California Redwood Acquisition Company, 1165 Maple Creek Road, Korb, the CUPA inspector missed the following SQG hazardous waste violations:</p> <ul style="list-style-type: none"> Failure to mark 18 empty containers with date emptied, Failure to check emergency equipment, such as fire extinguishers and eyewash/showers, Failure to maintain aisle space, Failure to properly label two (2) used oil tanks, and Unauthorized storage of spent antifreeze in a tank with the initial date of accumulation of 12/30/07. <p>HSC, Chapter 6.5, Section 25123.3 (h) (DTSC) CCR, Title 22, Sections 66261.7 (f), 66262.34 (d), and 66262.34 (f) CCR, Title 27, Section 15200 (b) (2)</p>	<p>By December 10, 2009, the CUPA will provide hazardous waste generator training to staff regarding the identification and citation of hazardous waste violations.</p> <p>On the first progress report, the CUPA will submit to Cal/EPA an action plan or schedule for the types and dates of training.</p>

CUPA Representative

Jeff Poel

(Print Name)

Original Signed

(Signature)

Evaluation Team Leader

Kareem Taylor

(Print Name)

Original Signed

(Signature)

Certified Unified Program Agency (CUPA)
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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

- 1. Observation:** The CUPA is not consistently documenting owner/operator consent to inspect on inspection reports. Inspectors sometimes document consent by writing the owner's/operator's name in the consent section of the inspection report; however, inspectors do not document consent to inspect by an owner/operator signature on the inspection report.

Recommendation: Cal/EPA recommends that the before each inspection, the CUPA request that an owner/operator sign their consent to the inspection on the inspection report. Signed consent on the inspection report is important because it strengthens any potential enforcement case against a noncompliant facility. This recommendation is based on the "Inspection Report Writing Guidance for UPA's". This document is can be found at www.calepa.ca.gov/CUPA/Documents/2005/InspectionRpt.pdf.

- 2. Observation:** The CUPA has an agreement with the County Agricultural Department to regulate the farm community in Humboldt County. CUPA management stated that they planned to have the Agricultural Department bill agricultural handlers the single fee. This is contrary to title 27 which states that each CUPA shall implement the single fee system.

Recommendation: Cal/EPA recommends that the CUPA make plans to collect single fee from the agricultural handlers. The Agricultural Department should notify the CUPA of its program costs so that the CUPA may bill the agricultural handlers correctly. The CUPA should pay the Agricultural Department within 45 days of receiving fees designated for the Agricultural Department.

- 3. Observation:** The CUPA does not classify violations as Class 1, Class 2, or minor in its inspection reports.

Recommendation: Cal/EPA recommends that the CUPA begin classifying violations as Class 1, Class 2, or minor on its inspection reports. The CUPA may modify its inspection reports to include checkbox columns where classifications may be recorded by inspectors. Documenting the violation classifications in this way will allow for better efficiency when violation data is entered into the CUPA's data management system.

- 4. Observation:** The CUPA File Maker Pro data management system classifies violations as C1 for class 1, major, and minor. It is unclear whether the CUPA interprets the "major" classification as class 2 or similar to a class 1. During the file review, DTSC did not find any violation classifications in the inspection reports.

Recommendation: The CUPA may want to modify its data management system to reflect what the CUPA will report in Summary Report 4. Cal/EPA recommends that the CUPA begins classifying violations in its data management system as Class 1, Class 2, or minor.

- 5. Observation:** The CUPA, through the Agricultural Department, has distributed questionnaires to agricultural handlers to determine their regulatory status. Many handlers have not responded to the questionnaire. The Agricultural Department is in the process of inspecting those handlers that have and have not responded to verify regulatory status.

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Recommendation: Cal/EPA recommends that the CUPA classify failure to submit and/or implement a BP for businesses with solely low volume, low hazard materials as class 2. In addition, it is recommended that the CUPA classify failure to submit or implement a business plan after notice and failure to submit or implement a business plan at high volume, high risk facilities as class 1. Refer to the violation classification guidance for more information.

- 6. Observation:** The CUPA exercises a graduated series of enforcement action as stated in its I and E Plan, but the plan does not address the elevation of violation classifications when violations have not been corrected by the correction due date.

Recommendation: Cal/EPA recommends that the CUPA address the elevation of violation classifications along with its follow-up actions in the I and E plan.

- 7. Observation:** Functionally, the 2008 area plan is one of the better plans the Cal EMA evaluator has seen. However, in addition to the deficiency listed above, a number of errors and typos were observed. Most important:

- Page I-38 – The address given for written reports is obsolete. In addition to a recent name change, the office moved in 2001. Currently, the correct information is:

California Emergency Management Agency
Hazardous Materials Unit
3650 Schriever Avenue
Mather, CA 95655

Recommendation: During the 2011 area plan revision, Cal EMA recommends that the CUPA take steps to ensure that all contact information is current and correct. The “Appendix L – 1/2009 Corrections” document in the front of the binder is a good example of this.

- 8. Observation:** The CUPA does not have a procedure in place to review and approve monitoring plans submitted by the UST facility. The CUPA does confirm that the monitoring plan is accurate and complete during the annual compliance inspection.

Recommendation: The SWRCB recommends that the CUPA develop a policy/procedure to review monitoring plans submitted and provide a copy of the approved plan to the UST facility owner/operator to maintain on site. The new UPCF monitoring plan (Form D) has a field for indicating that the plan has been reviewed and approved by the CUPA and with any conditions.

- 9. Observation:** The CUPA’s has the old UST forms available for download on its website. The SWRCB now has the new Form A, B, and D documents in Form-Functional Word format that the CUPA can use for their website. Also the Response Plan (Form E) on the CUPA’s website is the old version.

Recommendation: The SWRCB recommends that the CUPA download the new Forms A,B, and C that are Form-Functional and the Response Plan should be updated to the newer March 2008 document which are on the SWRCB website at http://www.waterboards.ca.gov/water_issues/programs/ust/forms/index.shtml.

- 10. Observation:** There are a few minor problems in the CUPA’s I and E Plan in regard to the UST program

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element.

Recommendation: The SWRCB recommends that the CUPA make the following changes to the I and E Plan. In Item 1, the reference to UST code and regulations the "2" is missing from the CCR Title 23 citation. In Item T, "Quarterly Reporting" should be changed to "Semiannual Reporting", in addition, "biennial basis" should be changed to "semiannual basis".

11. Observation: The CUPA is doing a good job in following-up on hazardous waste generator complaints referred by DTSC.

Recommendation: None.

12. Observation: The CUPA's field inspection report and checklist does not contain a section for an inspector to check off which hazardous waste program the facility is regulated as (ex. RCRA LQG, LQG, SQG, or CESQG). While this information is not required, it is important to note so that the inspectors can determine which regulations are applicable at the beginning of inspections. It will also assist in reporting RCRA LQG information.

Recommendation: DTSC recommends that the CUPA modify its hazardous waste inspection report to include check boxes for marking the type of hazardous waste facility.

13. Observation: The CUPA is unsure if its hazardous waste and tiered permitting facilities have been regulated under the appropriate hazardous waste generator law.

Recommendation: DTSC recommends that the CUPA implement a QA/QC procedure to ensure that the facilities are regulated by the correct hazardous waste generator law. Also, this will ensure that the facilities are regulated under the correct treatment tier.

14. Observation: The CUPA staff do not review DTSC's Hazardous Waste Tracking System (HWTS) as part of a hazardous waste generator (HWG) inspection preparation since this review is not a part of their normal procedures.

Recommendation: DTSC recommends that the CUPA use HWTS when preparing for HWG inspections.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. CUPA staff have participated in the annual CUPA Conferences for the past 2 years.
 - In 2008, Melissa Martel instructed the business plan AEO violations course. Jeff Poel also instructed an AEO course.
 - In 2009, Larry Lancaster instructed a UST – Marijuana course. Melissa Martel assisted in instructing the basic AEO course.
2. The CUPA has created a Compliance Assistance Project account that is used to collect business plan enforcement money through AEOs. This money is used primarily for ongoing CUPA training and to offset equipment and staff travel costs.
3. Cal EMA staff accompanied CUPA inspectors on business plan inspections at a compressed gas company and at a nursery. The inspections were thorough and included waste generation and universal waste disposal, as well as, all of the elements of the business plan. Follow-up activities were discussed in detail. The inspector took the time to educate the facility operators about program requirements. These inspections also served as training for 2 new inspectors, one for the CUPA and one for the County Department of Agriculture.
4. On April 28, 2009, Inspector Dean Adams conducted the UST site inspection in a thorough and professional manner and had good rapport with the UST owner/operator and the service technician. He used a detailed and complete Inspection Checklist to document the scope of the inspection and all the required elements in compliance. His attention to detail and knowledge of code and regulations resulted in an excellent inspection. Dean did an extensive pre-review of the UST file and created cheat sheets to verify operational compliance and all the required paperwork. Dean also provided training to a new UST Inspector from the CUPA during the inspection. Dean also asked for suggestions on how to improve his inspection technique and procedure.